

## EXHIBIT C



1 REMOTE APPEARANCES:

2

3 LAW FIRM OF OMAR T. MOHAMMEDI, LLC

4 BY: OMAR T. MOHAMMEDI, ESQUIRE

5 omohammedi@otmlaw.com

6 JILL L. MANDELL, ESQUIRE

7 jmandell@otmlaw.com

8 Woolworth Building

9 233 Broadway, Suite 820

10 New York, New York 10279

11 (212) 725-3846

12 Counsel for World Assembly of Muslim Youth

13

14 GOETZ & ECKLAND P.A.

15 BY: FREDERICK J. GOETZ, ESQUIRE

16 fgoetz@goetzeckland.com

17 Banks Building

18 615 1st Avenue NE, Suite 425

19 Minneapolis, Minnesota 55413

20 (612) 874-1552

21 Counsel for World Assembly for

22 Muslim Youth

23

24 KREINDLER & KREINDLER LLP

25 BY: ANDREW J. MALONEY, ESQUIRE

amaloneyn@kreindler.com

15 485 Lexington Avenue, 28th Floor

16 New York, New York 10017

17 (212) 687-8181

18 Counsel for Plaintiffs' Executive

19 Committee and the Ashton plaintiffs

20

21 COZEN O'CONNOR

22 BY: SEAN P. CARTER, ESQUIRE

23 scarter1@cozen.com

24 J. SCOTT TARBUTTON, ESQUIRE

25 starbutton@cozen.com

26 One Liberty Place

27 1650 Market Street

28 Philadelphia, Pennsylvania 19103

29 (800) 523-2900

30 Counsel for Plaintiffs' Executive

31 Committee and the Federal Insurance

32 plaintiffs

1

REMOTE APPEARANCES:

2

3

MOTLEY RICE

4

BY: ROBERT HAEFELE, ESQUIRE

rhaefele@motleyrice.com

5

C. ROSS HEYL, ESQUIRE

rheyl@motleyrice.com

6

JOHN M. EUBANKS, ESQUIRE

jeubanks@motleyrice.com

7

JODI FLOWERS, ESQUIRE

jflowers@motleyrice.com

28

Bridgeside Blvd.

8

Mt. Pleasant, South Carolina 29464

(843) 216-9184

9

Counsel for Plaintiffs' Executive

Committee and Brunett plaintiffs

10

11

ALFAHAD & PARTNERS

12

BY: ABDULAZIZ AL FAHAD, ESQUIRE

alfahad@fahadlaw.com

Riyadh, Saudi Arabia

13

Counsel for Kingdom of Saudi Arabia

14

LEWIS BAACH KAUFMAN MIDDLEMISS PLLC

15

BY: WALEED NASSAR, ESQUIRE

waleed.nassar@lbkmlaw.com

16

SUMAYYA KHATIB, ESQUIRE

sumayya.khatib@lbkmlaw.com

17

AISHA E.R. BEMBRY, ESQUIRE

aisha.bembry@lbkmlaw.com

18

ERIC L. LEWIS, ESQUIRE

eric.lewis@lbkmlaw.com

19

1101 New York Avenue, N.W.

Suite 1000

20

Washington, D.C. 20005

(202) 833-8900

21

Counsel for the Muslim World League

and the International Islamic Relief

22

Organization.

23

24

25

1 A. 135 pages is correct.

2 Q. And is that correct that your rebuttal  
3 was 66 pages?

4 A. Yes.

5 Q. Do you agree with me that this is a  
6 massive case, correct?

7 A. Yes.

8 Q. With massive documents; correct?

9 A. Yes.

10 Q. Massive documents produced?

11 A. Yes.

12 Q. This is for the finder to evaluate claims  
13 and defense in this case. Do you agree with me?

14 A. Yes.

15 Q. Did you choose which document to review  
16 and which document not to review?

17 A. Yes.

18 Q. Did the lawyers select documents for you  
19 to review?

20 A. Yes and no.

21 Q. What do you mean by yes and no?

22 A. I was given an initial group of  
23 documents. After going through those documents, I  
24 asked for more documents. And that took place a  
25 couple of times.

1 wanted an audit and I did request them.

2 Q. Is it fair to say that you did not review  
3 the audit before you produced your affirmative  
4 report; correct?

5 A. My report itself says I did not.

6 Q. Okay. And are you aware that Muslim  
7 World League produced over 700,000 pages of  
8 documents?

9 MR. HAEFELE: Objection to form.

10 A. I have stated and now repeat that I am  
11 not aware of the amount of documents produced by  
12 anyone involved in the case in terms of the numbers.

13 Q. (BY MR. MOHAMMEDI) And it's fair to say  
14 that your affirmative report did not really rely  
15 mostly on the documents produced in this case;  
16 correct?

17 MR. HAEFELE: Objection to form.

18 A. I can't respond to that question with a  
19 yes or a no.

20 Q. (BY MR. MOHAMMEDI) No, you can.

21 A. It relied on the material that I've  
22 listed. I looked at every audit that I was able to  
23 get my hands on and the financial records associated  
24 with them. And I went through depositions of the  
25 officers of the defendants, for example, and sought

1 to consider as much information as I could within  
2 the time available.

3 Q. Yeah. It is fair to say it's over  
4 2 million pages of documents between -- let's say  
5 World Assembly Muslim Youth and Muslim World League,  
6 we will call it WAMY and MWL. So you have not  
7 reviewed the over 2 million pages of documents that  
8 were produced by WAMY and Muslim World League;  
9 correct?

10 MR. HAEFELE: Objection to form.

11 A. It is correct that I have not reviewed  
12 2 million documents from anyone at any time in my  
13 life.

14 Q. (BY MR. MOHAMMEDI) I will direct you to  
15 page 6 and page 26 of your reliance material.

16 If -- there is the highlighted version  
17 there. If you see Exhibits 267, which was actually  
18 an exhibit to a deposition of WAMY, and there was a  
19 document there, says, WAMYSA0276804. Do you see  
20 that?

21 A. Yes.

22 Q. That's one of your reliance material;  
23 correct?

24 A. It's material that was available to me,  
25 which I considered. I considered as much as I could

1           Q.     Okay.  So you are rendering your opinion  
2 with this type of expertise in this report.  Is that  
3 what you're claiming?  You are an expert in all  
4 these areas that you are rendering your opinion on?

5           A.     I'm not claiming anything.  I have  
6 rendered my opinion in these areas.

7           Q.     As an expert?

8           A.     As an expert in international financial  
9 crime and terrorist finance, including the area of  
10 charity abuse.

11          Q.     Okay.  So I'm just trying to understand  
12 your area of expertise in this case.

13                    MR. HAEFELE:  Objection to form.  Is  
14 there a question there, Omar?

15          Q.     (BY MR. MOHAMMEDI)  Is there an area of  
16 expertise you have and you're rendering an opinion  
17 in this case?

18                    MR. HAEFELE:  Objection to form.

19          A.     I have been studying and worked as a  
20 practitioner in counter transnational financial  
21 crime going back to the earliest phases of my career  
22 beginning in 1980 when I did my first money  
23 laundering case.  That expertise included  
24 investigations of terrorist activity and terrorist  
25 finance when I worked in the United States Senate in

1 wanted an audit and I did request them.

2 Q. Is it fair to say that you did not review  
3 the audit before you produced your affirmative  
4 report; correct?

5 A. My report itself says I did not.

6 Q. Okay. And are you aware that Muslim  
7 World League produced over 700,000 pages of  
8 documents?

9 MR. HAEFELE: Objection to form.

10 A. I have stated and now repeat that I am  
11 not aware of the amount of documents produced by  
12 anyone involved in the case in terms of the numbers.

13 Q. (BY MR. MOHAMMEDI) And it's fair to say  
14 that your affirmative report did not really rely  
15 mostly on the documents produced in this case;  
16 correct?

17 MR. HAEFELE: Objection to form.

18 A. I can't respond to that question with a  
19 yes or a no.

20 Q. (BY MR. MOHAMMEDI) No, you can.

21 A. It relied on the material that I've  
22 listed. I looked at every audit that I was able to  
23 get my hands on and the financial records associated  
24 with them. And I went through depositions of the  
25 officers of the defendants, for example, and sought

1 to consider as much information as I could within  
2 the time available.

3 Q. Yeah. It is fair to say it's over  
4 2 million pages of documents between -- let's say  
5 World Assembly Muslim Youth and Muslim World League,  
6 we will call it WAMY and MWL. So you have not  
7 reviewed the over 2 million pages of documents that  
8 were produced by WAMY and Muslim World League;  
9 correct?

10 MR. HAEFELE: Objection to form.

11 A. It is correct that I have not reviewed  
12 2 million documents from anyone at any time in my  
13 life.

14 Q. (BY MR. MOHAMMEDI) I will direct you to  
15 page 6 and page 26 of your reliance material.

16 If -- there is the highlighted version  
17 there. If you see Exhibits 267, which was actually  
18 an exhibit to a deposition of WAMY, and there was a  
19 document there, says, WAMYSA0276804. Do you see  
20 that?

21 A. Yes.

22 Q. That's one of your reliance material;  
23 correct?

24 A. It's material that was available to me,  
25 which I considered. I considered as much as I could

1 Q. (BY MR. MOHAMMEDI) Did they submit  
2 reliance material, did they?

3 John Marks would submit his reliance  
4 material. Did you --

5 MR. HAEFELE: Object to the form.

6 Q. (BY MR. MOHAMMEDI) Did you review the  
7 reliance materials that John Marks submitted in his  
8 report?

9 MR. HAEFELE: Objection to form,  
10 foundation.

11 A. I reviewed all the audit material that  
12 was made available to me, and my conclusions about  
13 that audit material were provided in my rebuttal  
14 report.

15 Q. (BY MR. MOHAMMEDI) And is that fair to  
16 say, based on his statement in his report?

17 A. I looked at the statements in his report.  
18 I looked at the audit material. I asked if there  
19 was any additional audit material, and I expressed  
20 my concern that there was a lot of material that was  
21 still missing.

22 Q. Okay. Which questions relating to the  
23 involvement of charities in international terrorism  
24 finance in the period leading up to 9/11 attacks  
25 were you asked to opine on?

1 the 1980s; that included exposure to these issues  
2 continuously during the time that I was at the State  
3 Department from 1994 through 1999. So from the  
4 period of from 1985 to '99 while I was in the  
5 federal government, I was exposed -- 1985 to 1999 --

6 MR. MOHAMMEDI: Mr. Winer, I thought  
7 you were answering my question. We are going  
8 to go through those.

9 MR. HAEFELE: I'm going to object to  
10 the --

11 Q. (BY MR. MOHAMMEDI) My question is --

12 MR. HAEFELE: Omar, let me object to  
13 you interrupting and not letting him finish  
14 the answer to the question. I understand --

15 MR. MOHAMMEDI: I don't think he's --  
16 I don't think he's -- his answer is not  
17 responsive and I want to make sure I have a  
18 response.

19 MR. HAEFELE: All right. I just want  
20 the record --

21 MR. MOHAMMEDI: I am not asking  
22 him --

23 MR. HAEFELE: Omar, I just want the  
24 record --

25 MR. MOHAMMEDI: Listen, can you

1 not -- listen, this is my deposition, Robert.

2 MR. HAEFELE: I know it's your  
3 deposition, but it's my opportunity to make  
4 sure that he gets to answer the questions, and  
5 you can't interrupt.

6 MR. MOHAMMEDI: He is not answering  
7 the questions --

8 MR. HAEFELE: Omar, I'm just --

9 MR. MOHAMMEDI: He's not.

10 MR. HAEFELE: Omar, I'm just making a  
11 record. You can go on with your deposition.  
12 I'm just making a record.

13 MR. MOHAMMEDI: Okay. So I am -- I  
14 want to make sure we don't waste a lot of  
15 time. We are going through those. Sooner or  
16 later we'll go through them.

17 Q. (BY MR. MOHAMMEDI) My question is very  
18 specific: Which area of expertise you're opining in  
19 this case. That's it. You just need to tell me.  
20 And you hold yourself as an expert. Which area  
21 you're holding yourself as an expert in this case.

22 MR. HAEFELE: And what is what he --

23 MR. MOHAMMEDI: You gave me page 2.

24 MR. HAEFELE: Just for the record,  
25 that is what he was answering you, Omar, and

1 you interrupted.

2 Q. (BY MR. MOHAMMEDI) So anyway, this is  
3 the list of expertise you have provide -- you are  
4 providing in this case, correct, Mr. Winer?

5 MR. HAEFELE: Objection to form.

6 A. Yes.

7 Q. (BY MR. MOHAMMEDI) Are you an academic?

8 A. Yes.

9 Q. Do you teach?

10 A. Yes.

11 Q. Where do you teach?

12           A.     I've taught at various times, courses at  
13     many different schools, Georgetown, George  
14     Washington, American University, Princeton, Harvard,  
15     NYU.   It's listed in my resumé, the various places  
16     that I've taught in my CV.

17 Q. And --

18           A.     I also taught for many years at the Kent  
19     School operated by the CIA. The CIA's Kent School,  
20     and was regularly teaching there throughout most of  
21     the 00s, most of the period from about 2000 to 2008.  
22     I am affiliated today with the Middle East  
23     Institute, where I regularly engage in various types  
24     of teaching.

25 Q. Now, you -- you said that you taught many

1           A.     I would have to look at precisely what  
2     their CV said.

3           Q.     Are you an expert in history of al-Qaeda?

4           A.     What is that?  Omar, I didn't hear you.

5           Q.     Al-Qaeda.  Are you an expert on history  
6     of al-Qaeda?

7           A.     In certain context, yes.  I know enough  
8     about its activities Afghanistan, Bosnia, Chechnya,  
9     Sudan, Southeast Asia, and elsewhere to have  
10    familiarity with its activities.

11          Q.     How do you know that?

12          A.     I have some expertise in the area.  I am  
13    not an Arabic reader, so there are things that are  
14    in Arabic, I'm sure, that would allow me to know  
15    more.

16          Q.     How do you -- how did you gain that  
17    expertise?

18          A.     When the United States government first  
19    became concerned about al-Qaeda in the 1990s, I was  
20    meeting regularly with Richard Clarke at the NSC who  
21    is the United States government's counterterrorism  
22    czar at the time.  And I was dealing with the  
23    interrelated issue of international crime, and in  
24    particular international financial crime.  And the  
25    two are inexorably intermingled, and the

1       United States was seeking that period of time, both  
2       to understand these phenomena and to begin to build  
3       capacity to combat them. And I had regular contact  
4       with Mr. Clarke and was working for him and with  
5       him, such as with Michael Sheehan, for example, and  
6       Rand Beers on these issues in the late 1990s and  
7       became aware of his concern.

8           Q.        Okay. And is it fair to say those were  
9       within the policy scope?

10           MR. HAEFELE: Objection, form.

11           A.        I'm not sure I understand the question.

12           Q.        (BY MR. MOHAMMEDI) Were you dealing with  
13       this matter from a policy perspective?

14           A.        Yes, but I also was trying to -- it was  
15       my job also to communicate to other countries about  
16       what we needed them to do and what capacities we  
17       needed. I did not do that, however, regarding  
18       al-Qaeda myself. I was aware that others were, but  
19       I was not.

20           Q.        You were not. Okay. Have you ever  
21       studied terrorism in an academic setting?

22           A.        I couldn't understand the question.

23           Q.        Have you ever studied terrorism in any  
24       academic setting?

25           A.        I have been asked to write about

1      terrorism by a number of academic publications and  
2      have done so. For example, International Institute  
3      For Strategic Studies.

4            Q.      Mr. Winer, my question is not that. My  
5      question -- we're going to go through that, believe  
6      me.

7            MR. HAEFELE: Objection. Omar, can  
8      you not stop -- you cannot keep interrupting.

9            MR. MOHAMMEDI: If you're going to --  
10     stop interjecting, I'm going to call the  
11     Court.

12            MR. HAEFELE: You can call the Court.  
13     Because I will tell the Court that you keep  
14     interrupting the witness.

15            MR. MOHAMMEDI: Listen, Robert, I am  
16     not going to allow you, I am not -- you're  
17     harassing.

18            MR. HAEFELE: Omar, you have to let  
19     him finish the question.

20            MR. MOHAMMEDI: And now you will not  
21     allow me to conduct my deposition. I am  
22     really being respectful to the witness. I'm  
23     asking question and --

24            MR. HAEFELE: You are aren't doing a  
25     deposition. You are asking questions and then

1 A. Yes.

2 Q. -- related to where?

3 A. Yes.

4 Q. Are you an expert on Islam?

5 A. I am not an expert on the doc --

6 religious doctrine of any kind, except to the extent  
7 that it involves the political impact of different  
8 types of interpretations of religion when a religion  
9 is politicized into a political movement, where I  
10 have expertise.

11 So when you have a combination of foreign  
12 policy, security, and religion, that's an area that  
13 I have devoted some extensive work on over a long  
14 period of time.

15 And that is an area of expertise, yes.

16 In the Middle East bureau, where I was from 2013 to  
17 2017, we were constantly dealing with -- within the  
18 bureau and I was personally -- the competing agendas  
19 of political Islam and various strands and strains  
20 of political Islam, including that in the Islamic  
21 state and al-Qaeda and other groups like Ansar  
22 al-Sharia. And that competing with -- Arab  
23 nationalism competing with states that would be  
24 modern unitarian states, competing with warlord and  
25 different types of rule in which pan-Islamic rule

1 was one of the strains, political strains that had  
2 all kinds of consequences for terrorism and  
3 terrorist risk, and having to understand the various  
4 strands of those was critically important to my  
5 work.

6 In that period in particular, while I was  
7 involved.

8 Q. (BY MR. MOHAMMEDI) But you are not an  
9 expert on Islamic terms of concept from a religious  
10 standpoint, are you?

11 MR. HAEFELE: Objection, form. Asked  
12 and answered.

13 A. I am not really -- I'm not willing to  
14 adopt your question as an answer. I'm happy to say  
15 again what my expertise is.

16 Q. (BY MR. MOHAMMEDI) Are you a religious  
17 expert? "Yes" or "no."

18 MR. HAEFELE: Objection to form.

19 Q. (BY MR. MOHAMMEDI) Are you a religious  
20 expert?

21 MR. HAEFELE: Still objection to  
22 form. It's the same question and he's  
23 answered.

24 A. I developed expertise in the political --

25 Q. (BY MR. MOHAMMEDI) I just say, are you a

1 religious expert? I mean, it's -- you already  
2 explained that. I'm just asking you are you a  
3 religious expert?

4 MR. HAEFELE: Omar, you keep asking  
5 and repeating the same answer he gave.

6 MR. MOHAMMEDI: He already answer a  
7 question that was not really what I was  
8 asking. I'm just asking if you are a  
9 religious expert.

10 A. I can answer it this way: My father was  
11 a medical researcher in cardiovascular disease and  
12 learned some fundamental principles in connection  
13 with the angiotensin system. He was an expert in  
14 that area. He was also a doctor. He was not an  
15 expert in glioblastoma. So if you're asking  
16 somebody are you an expert in medicine, well, yes,  
17 my father was a medical expert, a medical expert  
18 with certain areas of expertise.

19 I have certain areas of expertise. Am I  
20 a religious expert who spent my life on Islam,  
21 Christianity, Judaism, Buddhism, Bahaism, Sufism,  
22 the difference between Sunni and Shia, I have not  
23 spent my lifetime on it, although I could give you  
24 the basics of the Sunni/Shia split if it was of help  
25 to you. I could discuss when Wahhabism originated

1 and when the modern Salafi movement originated, and  
2 the fact that some people think its antecedents go  
3 back earlier and foundations for it earlier. I can  
4 talk about the relationship between Egypt and  
5 Saudi Arabia in competing for religious dominance.  
6 But does that make me an expert in religion? No.

7 MR. GOETZ: Objection, nonresponsive,  
8 move to strike.

9 Q. (BY MR. MOHAMMEDI) Do you hold yourself  
10 as a religious expert in this case?

11 MR. HAEFELE: Objection to form.

12 MR. MOHAMMEDI: Just answer this  
13 "yes" or "no."

14 MR. HAEFELE: Objection, you can't  
15 demand a "yes" or "no" answer.

16 MR. MOHAMMEDI: Robert, you can stop  
17 interjecting.

18 THE WITNESS: I believe I've answered  
19 the question.

20 Q. (BY MR. MOHAMMEDI) Are you an expert on  
21 religion in this case?

22 MR. HAEFELE: Objection to form,  
23 asked and answered multiple times.

24 A. I am expert on the political aspects of  
25 Islam and how it played out in the region in the

1 1980s, 1990s, and 00s.

2 Q. Are you an expert in Islamic terms and  
3 concepts?

4 A. I know about a few of them. Not all of  
5 them.

6 Q. Are you an expert --

7 Knowing is not an expert. Do you agree  
8 with me?

9 MR. HAEFELE: Objection to form,  
10 argumentative.

11 A. I think it's really up to others to  
12 determine the scope of my expertise. I felt  
13 comfortable and continue to feel comfortable  
14 answering questions that were posed to me in my  
15 expert report.

16 Q. (BY MR. MOHAMMEDI) Okay. Then we go to  
17 the next point.

18 (Reporter clarification.)

19 Q. (BY MR. MOHAMMEDI) Are you an expert on  
20 the Kingdom of Saudi Arabia history?

21 A. I know a fair amount about the Kingdom of  
22 Saudi Arabia. I dealt with issues relating to it  
23 every day in my last work, the state departments. I  
24 was not personally responsible for that  
25 relationship, but I was in meetings each morning

1 when I was in Washington to discuss the ins and outs  
2 of that relationship.

3 And I'm familiar with the modern history  
4 of Saudi Arabia.

5 Q. Have you ever been posted in  
6 Saudi Arabia?

7 A. No.

8 Q. Have you ever been posted anywhere in the  
9 Middle East pre-9/11 as U.S. representative?

10 A. I'm sorry, please repeat the question.

11 Q. Have you ever been posted anywhere in the  
12 Middle East pre-9-11 as a U.S. representative?

13 A. I've undertaken missions in a variety of  
14 places in the Middle East. I have been posted in  
15 Washington. I've always been -- I've lived in  
16 Washington since 1985.

17 Q. If we go to you -- as Exhibit 2, your CV  
18 and the experience and qualifications.

19 MR. HAEFELE: Just for the record,  
20 it's not Exhibit 2.

21 MR. MOHAMMEDI: I'm sorry, I'm sorry.  
22 Which exhibit, that CV and qualification.

23 MR. HAEFELE: 896.

24 Wait, do you want his CV or his  
25 expert report?

1 the time?

2 A. I was in law school. I was not -- did  
3 not have a law degree at that time.

4 Q. And what did you do?

5 MR. HAEFELE: Objection to form.

6 A. I worked with the -- John Sharkey  
7 comptroller of the currency and Tom Reardon of the  
8 FBI in preparing materials for a trial involving  
9 money laundering activity and fraud in the  
10 Caribbean. It was a cross-border crime, which  
11 introduced me to a number of concepts in money  
12 laundering and fraud. That's how I began my  
13 involvement in the skill.

14 Q. (BY MR. MOHAMMEDI) And you worked with  
15 Financial Action Task Force; correct?

16 A. Yes.

17 Q. Which is the Financial Action Task Force?

18 A. What is it? Is that the question?

19 Q. Yes.

20 A. The Financial Action Task Force was  
21 created in the meeting of the G7, I believe in 1989,  
22 in response in part to legislation that I worked on  
23 with Senator Kerry requiring the United States to  
24 negotiate what were then called Kerry agreements so  
25 that U.S. anti-money laundering laws, which were

1 still quite basic, would be adopted in other  
2 countries to avoid regulatory enforcement  
3 arbitration.

4 And the Bush administration did not want  
5 to negotiate bilateral agreements in that area, and  
6 what evolved was instead the Financial Action Task  
7 Force by a decision of the G7 in 1989.

8 Q. And at the time of its creation, did  
9 financial task force have any policies to combat  
10 terrorism financing in particular?

11 A. No.

12 Q. And the role was mostly related to policy  
13 matters; correct?

14 A. No.

15 Q. What is relate -- what was it related to?

16 A. It was a mechanism to develop  
17 international money laundering standards, which  
18 countries would then put into place to provide a  
19 foundation to combat money laundering and all forms  
20 of financial crime, essentially because money  
21 laundering involves disguising the actual uses of  
22 funds. So it applies to a very great range of  
23 felonies, of serious crimes. And the idea was to  
24 have it -- initially it was to combat drug  
25 trafficking only, but by 1996 it became modified

1 to -- a system to combat all forms of serious crime.

2 Q. Okay. And as a deputy assistant  
3 secretary of state for international law in 1984, on  
4 September 11, 1996 you testified before the House  
5 International Relations Committee; correct?

6 A. I don't recollect the date.

7 MR. MOHAMMEDI: Can you bring up  
8 Exhibit 6, which is 902, I believe. Right?

9 (Winer Deposition Exhibit 902, Cheap  
10 Flights to Nigeria, was marked for  
11 identification.)

12 TRIAL TECHNICIAN: That might take a  
13 second. That didn't come through --

14 MR. MOHAMMEDI: Can we go off record  
15 until you figure this out?

16 THE VIDEOGRAPHER: Going off the  
17 record. 11:50 a.m.

18 (Recess taken, 11:50 a.m. to  
19 11:51 a.m. EDT)

20 THE VIDEOGRAPHER: Back on the  
21 record. The time is 11:51 a.m.

22 Q. (BY MR. MOHAMMEDI) So in page 1 of that  
23 document, which is highlighted for you, in  
24 paragraph 3, is you -- you refer to your bureau's  
25 responsibility was to protect American citizens and

1 that; right?

2 A. Yes.

3 Q. And your responsibility was for policy;  
4 correct?

5 A. That was part of my responsibility, yes.

6 Q. And there was nothing referencing to  
7 terrorism or terrorism financing, was there?

8 A. That's correct.

9 MR. HAEFELE: Objection to the form.

10 A. But let me simply --

11 MR. MOHAMMEDI: I don't have any  
12 question pending.

13 MR. HAEFELE: Let him finish the  
14 answer, Omar.

15 A. At my bureau, given our responsibility,  
16 policy, and programs, the programs part got very  
17 operational. So it's a mistake and inaccurate to  
18 state that it's limited to policy only.

19 Q. (BY MR. MOHAMMEDI) But it's a relate --  
20 it's not related to anything about terrorism;  
21 correct?

22 A. That's correct.

23 MR. HAEFELE: Objection to form.

24 A. That statement is not related to anything  
25 about terrorism. The hearing was on Nigerian crime.

1 MR. HAEFELE: Omar, what's on the  
2 screen, is it Exhibit 902?

3 MR. MOHAMMEDI: Yes.

4 MR. HAEFELE: Okay.

5 Q. (BY MR. MOHAMMEDI) All right. So let's  
6 go -- in 1999 -- we can take this off screen.

7 In 1999, you return to private legal  
8 practice; correct?

9 A. Yes.

10 Q. And it was from 1999-2008; correct?

11 A. Correct.

12 Q. Did you gain any expertise in terrorism  
13 finance while engaged in private practice during  
14 that time?

15 A. Yes.

16 Q. Did you represent any Gulf state during  
17 this period?

18 A. No.

19 Q. And what type of expertise in terrorism  
20 finance did you gain during that time?

21 MR. HAEFELE: Objection to form.

22 A. As I've stated, I had developed broad  
23 experience in my work in the Senate initially, and  
24 then at the Department of State on cross-border  
25 financial crime, which includes frauds of every

1 kind. Money laundering of every kind.

2 And fraud and money laundering including  
3 terrorism. As mentioned, I first encountered the  
4 terrorism problem in my work for the subcommittee on  
5 Terrorism, Narcotics, and International Operations,  
6 organizations, I believe the subcommittee was  
7 called, in the years I was working for then-Senator  
8 John Kerry.

9 That expertise was the foundation for my  
10 understanding on terrorist finance. They also  
11 worked closely with Richard Clarke, who was the lead  
12 person in the U.S. government during the Clinton  
13 administration for dealing with terrorism, and  
14 chatted with him about it in the course of my work,  
15 which was directly adjacent and intersected with the  
16 work that was being undertaken on terrorism. My  
17 involvement was limited to an understanding that we  
18 needed to take on terrorist finance at the same time  
19 and that we had a growing problem associated with  
20 terrorist finance. This emerged fairly rather late  
21 in my time at the Department of State, '98, '99,  
22 with particular focus after the terrorist bombings  
23 of our embassies, which got everybody's attention at  
24 the State Department and caused people to broaden  
25 and deepen their focus on these issues.

1                   During this period of time, Mr. Clarke  
2    was quite frustrated with the response of the U.S.  
3    government to what he perceived as a tremendous  
4    threat. I was one of the people in the functional  
5    bureaus who he could talk with about the nature of  
6    the threat without getting push-back.

7                   The regional bureaus very often would  
8    push back when you were asking countries to do more.  
9    And the Middle East bureau, in this period of time,  
10   would push back sometimes.

11                  And so I got exposed to it in that  
12    period. When I went to Alston & Bird, after 9/11, I  
13    was reached out to by the United States Senate, by  
14    ABC News, by academic institutions, and participated  
15    in a number of seminars, conferences, and so on, on  
16    terrorism finance; and used that period of time to  
17    deepen my knowledge and research into the  
18    phenomenon. I also was retained by the  
19    United States government from a period of about 2000  
20    to a period of about 2008 to provide regular reports  
21    on countries relating to money laundering, terrorist  
22    finance, corruption, these countries'  
23    vulnerabilities, and these companies' capacities to  
24    deal with them.

25                  And so my study continued while I was

1 under contract to the United States government  
2 throughout that period.

3 Q. (BY MR. MOHAMMEDI) And that was from  
4 1999-2008; correct?

5 A. No, I believe it was 2000 to 2008, not  
6 1999.

7 Q. 2000. Because I think it says 1999.

8 A. I was at Alston & Bird from 19 -- the end  
9 of 1999 to 2008, but my work in this territory did  
10 not take place in 1999. I was there only two months  
11 in 1999, and that work began later.

12 Q. And, Mr. Winer, what percentage of your  
13 time would you estimate that was spent in counseling  
14 regarding terrorism finance for that period of time,  
15 which is from 2000-2008?

16 A. Could you please repeat the question.

17 Q. What percentage of your time would you  
18 estimate was spent on counseling regarding terrorism  
19 finance from 2000, 2008?

20 A. It's difficult for me to put a percentage  
21 on something I've never put a percentage on. I can  
22 tell you that I had a contract with the  
23 United States government, a series of contracts,  
24 which --

25 Q. How many? I'm sorry. How many

1 contracts?

2 A. I can't tell you how many. I can tell  
3 you how many years. They began in 2000 and  
4 continued through 2008. In which I was providing  
5 work regularly to the United States government  
6 throughout that period of time on this set of  
7 issues.

8 Q. And when you say, when you talk about  
9 2000, 2008, and you talk about your -- the contract,  
10 are those the clients that you were advising during  
11 that time?

12 A. I had private sector clients I provided  
13 advice to in connection with OFAC, and I had the  
14 government as a client providing analytic --  
15 academic or analytic work on country studies,  
16 principally, though it was not only country studies,  
17 of vulnerability to money laundering, vulnerability  
18 to terrorist finance. Their capacities to combat  
19 these phenomena. And what measures of performance  
20 might look like if they built greater capacity.

21 Q. And did you represent any charity itself  
22 in this -- during that time period?

23 A. Yes, as I've mentioned, I did.

24 Q. And was there --

25 A. As I've stated, I have, yes.

1 Q. And those are foreign charities or U.S.  
2 charities?

3 A. Both.

4 Q. And the foreign charities, which area  
5 of --

6 A. Middle East --

7 Q. -- the world that you were representing?

8 A. Middle East.

9 Q. Middle East mostly?

10 A. I can't -- you asked -- I talk about two  
11 cases involving OFAC. There's a third case which  
12 did not involve that, which involved a U.S. domestic  
13 charity which had other issues associated with  
14 financial documentation of its activities and  
15 investigated enforcement matters where I was  
16 providing advice.

17 Q. Did you represent any other government  
18 other than the U.S. government?

19 A. Let me think of what I did when. Yes,  
20 while I was at Alston & Bird, if that's the period  
21 we're talking about, I represented the government of  
22 Indonesia for a period.

23 Q. Indonesia. Any other government?

24 A. Later, I represented the government of  
25 Malaysia.

1                   And you were aware before about this  
2                   article, TD Bank cross-examination?

3                   A.       I was cross-examined on it by TD Bank,  
4                   that's correct.

5                   Q.       Can you --

6                   A.       I just told you what its origin was and  
7                   why.

8                   Q.       Okay.

9                   MR. MOHAMMEDI: Can we take a break?

10                  MR. HAEFELE: Sure.

11                  THE VIDEOGRAPHER: Going off the  
12                  record. The time is 12:33 p.m.

13                  (Recess taken, 12:33 p.m. to  
14                  12:46 p.m. EDT)

15                  THE VIDEOGRAPHER: We are back on the  
16                  record at 12:46 p.m.

17                  Q.       (BY MR. MOHAMMEDI) Mr. Winer, have you  
18                  ever been a -- have you ever appeared before 9/11  
19                  Commission as a former government official?

20                  A.       No.

21                  Q.       Did the Commission refer to you as a  
22                  contributor to the report?

23                  A.       No.

24                  Q.       What is your methodology?

25                  MR. HAEFELE: Objection to the form.

1                   A.        When I'm asked a question, as an expert,  
2        I draw on my own personal experience in the field,  
3        and the -- whatever period of time that I worked on  
4        an issue directly when I was in the government, I  
5        draw on my experience as a practitioner, as a  
6        lawyer, in which I -- when I've been exposed to  
7        clients with issues in that area, and my study of  
8        the law and my past study of facts. I draw upon, as  
9        well, analysis and academic work that I've  
10      undertaken in the past and the research I did in  
11      connection with that.

12                   I look at primary source information when  
13      it's available. So Jamal al-Fadl, for example,  
14      Mr. Ahmad, would both be examples of first-hand  
15      information. There's also -- can be first-hand  
16      information in newspaper reports when you have  
17      contemporaneous interviews or quotes from  
18      individuals, and I will use that as well.

19                   I rely on government reports, both from  
20      the United States and sometimes from other  
21      governments. I rely on UN reports and other  
22      official reports, because based on my experience,  
23      those are typically based on a tremendous amount of  
24      work, which often is documented; it's not always  
25      explicitly documented.

1 So what I try to do -- and this is --  
2 this was how I went about my work for the U.S.  
3 government from 2000 to 2008, when I was doing the  
4 analytic work I discussed with you. It's  
5 essentially an all-source approach in which you take  
6 as many sources as you can and then weigh the  
7 sources and bring them together to form your  
8 analytic findings on a topic. And so it's really I  
9 try and take advantage of the work that's been done  
10 by others, as much first-hand information as I can  
11 get my hands on, and analyze and assess it and bring  
12 human reason to bear upon it.

13 Q. (BY MR. MOHAMMEDI) Do you apply any  
14 scientific and social science methodology?

15 A. I think I have just described the  
16 methodology that I apply. And I'm not sure  
17 precisely what type of information you're looking  
18 for. Is it statistical information?

19 Q. You are the expert here. I guess you  
20 will explain to me how you -- how you reach your  
21 opinion by applying scientific and social science  
22 methodology.

23 MR. HAEFELE: Objection to form.

24           A.       As I've just described, I take primary  
25       source material, which is capable of being read, and

1 then of being further validated or invalidated.

2 For example, an audit, which contains  
3 statements that says we did no checking in the  
4 field, we had to rely on assurances. That is a  
5 factual statement. That provides information that  
6 is hopefully contemporaneous about what was and what  
7 wasn't done. So a scientific approach to that set  
8 compares that against an audit which did not contain  
9 those caveats.

10 And so you compare the audits against one  
11 another, look at what the international standards  
12 are, and apply the facts contained in the  
13 information, which is a mixture of primary source  
14 information, information that can be a combination  
15 of primary and secondary, plus others' academic  
16 research together with one's own experience and  
17 one's own interviews, and you put that together and  
18 come to your opinions.

19 That's the approach that I took in the  
20 many years that I did the work for the U.S.  
21 government, and that's the approach that I've taken  
22 when I've been an expert.

23 Q. (BY MR. MOHAMMEDI) Do you use your  
24 methodology by applying all facts to you available,  
25 either helpful or not helpful to reach a conclusion?

1 A. Yes, I do.

2 Q. You do? Okay. And when you mentioned  
3 the primary sources, obviously primary sources can  
4 be in the form of document produced in a case;  
5 correct?

6 A. Yes.

7 Q. And then if you provide your  
8 information -- your opinion by not reviewing the  
9 documents in the case, would you consider that a  
10 complete conclusion?

11 MR. HAEFELE: Form.

12 A. You told me that there were millions of  
13 pages of materials produced in this case. That's my  
14 understanding. Is there anything that you would  
15 have to correct that understanding or is that  
16 correct? There were millions of documents produced  
17 in this case?

18 Q. (BY MR. MOHAMMEDI) Yes, I did.

19 A. I don't know how I or any other human  
20 being who is an expert witness could review millions  
21 of pages of documents in the case. There wouldn't  
22 be enough time in a year to do that. There wouldn't  
23 be enough time maybe in five years or ten years for  
24 one person to do that. So that cannot be what's  
25 required of an expert.

1                   What I did was I looked at, in light of  
2                   my own experience and knowledge, which included the  
3                   academic analytic work that I did for the U.S.  
4                   government, as well as my own tenure working for the  
5                   Senate and my two tenures at the State Department,  
6                   and the work that I've done on behalf of clients, I  
7                   looked at the materials provided to me by the  
8                   attorneys in this case, supplemented it with  
9                   additional research into the secondary literature of  
10                   some scholars, who I cite in my reliance material,  
11                   and that's how I came to my formulations.

12                   When there was first-hand information  
13                   that I thought was particularly relevant, I looked  
14                   at it. And when I didn't have it, I asked for more  
15                   of it. A particular case of that is there were  
16                   representations about the extent of audits. I  
17                   wanted every audit that I could get my hands on.  
18                   The more, the better, because that's primary source  
19                   information that's very important to me.

20                   Q.     So let's make it clear on the record that  
21                   the audit you're referring to are not in your  
22                   affirmative report. Right?

23                   A.     Yes.

24                   Q.     Let's also --

25                   A.     Excuse me, the audits for WAMY were not

1 MR. HAEFELE: Objection to form.

2 Q. (BY MR. MOHAMMEDI) Do you use that as a  
3 fact or you corroborate the information in the --  
4 did you corroborate the information in the 1996?

5 MR. HAEFELE: Form.

6 A. I looked at that report in the context of  
7 everything else that I know about terrorist finance.  
8 I look at that report in the context of what I was  
9 hearing about terrorist finance in the last years of  
10 the Clinton administration, which is consistent with  
11 that report. I look at it with a continued  
12 expression of concern about some of the entities  
13 listed in the report by the United States government  
14 all the way up to and including two thousand --  
15 December 2009. I look at it in connection with the  
16 academic research in findings of a number of  
17 different academic researchers. I look at it in  
18 connection with the findings of the 9/11 Commission.  
19 And so I weigh it with a lot of other material.

20 But I do find the 1996 CIA report to be  
21 prescient and to reflect the concerns that the  
22 United States government was having in that period  
23 of time, of 1996, in which it began to formulate a  
24 lot of concern about al-Qaeda and terrorism in  
25 connection with support for conflicts in connection

1 with us, in a charitable support for conflicts in  
2 what I would call ABC, which is Afghanistan first,  
3 Bosnia, and Chechnya. And as that concern began to  
4 emerge, this report reflected, I believe, that  
5 concern. So I give that report substantial weight.

6 Q. (BY MR. MOHAMMEDI) Okay. And which is  
7 the standard for concern in your opinion?

8 MR. HAEFELE: Objection, form.

9 A. Beg your pardon?

10 Q. (BY MR. MOHAMMEDI) What is the standard  
11 of concern that you keep mentioning?

12 MR. HAEFELE: Form.

13 Q. (BY MR. MOHAMMEDI) Is there a standard  
14 of concern?

15 A. When the United States government says  
16 it's concerned about something, in a formal  
17 diplomatic cable, for example, or expresses it  
18 publicly to another government, that's often -- it's  
19 not always, but often a term that's used to indicate  
20 a démarche. A démarche is a communication from the  
21 United States government to a foreign government  
22 saying, in effect, we have a problem that we need to  
23 discuss with you. We're concerned about this. We  
24 need to have steps taken. So it is expressing a  
25 sense that there is a problem, and that concern can

1 reporting on WAMY; right? And those adverse  
2 reporting listed many newspaper articles, or as a  
3 matter of fact, listed is some other matters in this  
4 lawsuit. Will you consider those as a primary  
5 source for you to consider?

6 A. The primary source is the Canadian  
7 report. Their primary source may not be primary, it  
8 may be secondary sources. I'd have to look at the  
9 various materials. But that document itself  
10 reflects what the findings were of Canada in  
11 connection with this chart. And so it's a primary  
12 source for that purpose. That's what it is.

13 Q. Okay.

14 A. But is that -- is that report in turn  
15 based on secondary sources? It's based on mixture  
16 of primary source data such as financial records and  
17 financial information, statements made to them, and  
18 secondary source information, which are also relied  
19 on. That's my understanding of that report.

20 Q. Okay. Do you agree that charities --  
21 that -- do you agree that charities  
22 supported al-Qaeda? They don't support the al-Qaeda  
23 just because they operate in conflict zone?

24 MR. HAEFELE: Objection to the form.

25 A. If I understand the question correctly,

1       your understanding of whether a charity that's  
2       operating in a conflict zone is necessarily engaged  
3       in terrorist support or terrorist finance?

4           Q.       (BY MR. MOHAMMEDI)   Correct.

5           A.       If that's the question, the answer is no,  
6       they are not.

7           Q.       If you, Mr. Winer, if you can just refer  
8       to your report.  We're going to go through a series  
9       of sections about the report.

10           If you go to Section 5, page 18.

11           So in that one you said, Saudi Arabian  
12       charities, and that's Section 501.  5.1, sorry.

13           Do you see that?

14           A.       Yes.

15           Q.       Okay.  You said:  Saudi Arabian charities  
16       and Saudi nationals played a central role in helping  
17       al-Qaeda create its global infrastructure, uniting  
18       disparate Muslim groups in different parts of the  
19       world into a common extremist cause.

20           Can you read that?

21           A.       Yes.

22           Q.       What do you mean by central role?

23           A.       I think if you turn to the 9/11  
24       Commission report, I've given a great deal of  
25       thought to this, and pages 170 to 171 I think

1 funded by these large Gulf charities and had  
2 employees who would siphon the money to al-Qaeda.

3 Q. (BY MR. MOHAMMEDI) So it says  
4 al-Haramain. It doesn't say WAMY, it doesn't say  
5 Muslim World League, correct?

6 MR. HAEFELE: Objection to form and  
7 objection to the interruption.

8 A. It says, smaller charities in various  
9 parts of the globe were funded by these large Gulf  
10 charities. The al-Haramain reference is a reference  
11 to an entity which Saudi Arabia joined and  
12 sanctioned, and it is a "such as." Such as means  
13 it's not the only one. Now, there were a limited  
14 number of large international charities in  
15 Saudi Arabia. And the one the United States  
16 government referred to repeatedly as a particular  
17 concern in public testimony and in private  
18 communications to the Saudi Arabian government were  
19 IIRO, the Muslim World League, and WAMY.

20 Q. (BY MR. MOHAMMEDI) So here, if you --  
21 Mr. Winer, what does it say on those pages that  
22 WAMY, Muslim World League, and IIRO played any role  
23 in helping create al-Qaeda's global infrastructure.  
24 What does it say here?

25 A. I believe it says, the statement, large

1 international charities such as, which set up, were  
2 supporting, smaller charities, is a reference to  
3 those three entities.

4 Q. But my question is very specific. Has it  
5 said those names that they form helping create  
6 al-Qaeda global infrastructure. Based on your  
7 statement in 5.1: Central role in helping al-Qaeda  
8 creates its global infrastructure, uniting disparate  
9 Muslim groups, in different parts of the world into  
10 a common extremist cause. I'm just asking, does --  
11 is it true that WAMY, Muslim World League, and IIRO  
12 were not named in this; correct?

13 MR. HAEFELE: Objection to form.

14 Q. (BY MR. MOHAMMEDI) That is 9/11  
15 Commission report; correct?

16 MR. HAEFELE: The report is reticent  
17 on the names of who the other large  
18 international charities were.

19 Q. (BY MR. MOHAMMEDI) You're -- but,  
20 Mr. Winer, you're the one who wanted to refer me to  
21 page 170, 171 to support your opinions; right?  
22 Correct?

23 A. Yes, I'm asking to you understand this in  
24 connection with many statements made by U.S.  
25 government officials in other forums about these

1 entities, and you put two and two together and it  
2 makes four.

3 Now, if you look on page 171 --

4 Q. These are your assumptions; correct?

5 A. I beg your pardon?

6 Q. These are your assumptions; correct?

7 A. This is my understanding. Page 171,  
8 please. The end of the first paragraph, the first  
9 full paragraph: This conclusion does not exclude  
10 the likelihood that charities with significant Saudi  
11 government sponsorship -- charities -- diverted  
12 funds to al-Qaeda. Charities is more than one.

13 It's not just al-Haramain.

14 Q. First of all, it does not say WAMY,  
15 Muslim World League, and IIRO, correct?

16 MR. HAEFELE: Objection.

17 Argumentative.

18 A. It is reticent on the identity of those  
19 charities.

20 Q. (BY MR. MOHAMMEDI) And that's based on  
21 your assumption, correct?

22 MR. HAEFELE: Objection.

23 A. Based on the other statements made by  
24 U.S. government officials in a number of other  
25 contexts. That is what I believe, correct.

1 Q. (BY MR. MOHAMMEDI) Okay. Just bear with  
2 me a second. I just want to -- while you're here,  
3 I'd like to address one more. So the commission  
4 report does not exclude the likelihood; correct?

5 A. That's correct.

6 Q. Your testimony said is the likelihood;  
7 correct?

8 A. Yes.

9 Q. Why do you do that?

10 MR. HAEFELE: Objection to the form.

11 A. Because I looked at the entire record  
12 that's been available to me that I was able --

13 Q. (BY MR. MOHAMMEDI) But you are -- but  
14 you are misquoting, Mr. Winer. You're misquoting  
15 the 9/11 Commission report; correct?

16 MR. HAEFELE: Objection on  
17 interrupting the witness.

18 A. Please, sir, show me where I'm misquoting  
19 the report.

20 Q. (BY MR. MOHAMMEDI) Let me show you.

21 MS. ROTHSTEIN: Do not argue with the  
22 witness.

23 MR. MOHAMMEDI: Can we go off the  
24 record for a second?

25 THE VIDEOGRAPHER: We are going off

1 the record at 1:29 p.m.

2 (Recess taken, 1:29 p.m. to

3 1:30 p.m. EDT)

4 THE VIDEOGRAPHER: Back on the record  
5 at 1:30 p.m.

6 Q. (BY MR. MOHAMMEDI) Mr. Winer, I direct  
7 you to paragraph 5.34 of your report, affirmative  
8 report at page 21.

9 And you put that in bold.

10 Commission noted, a likelihood that  
11 charities with significant Saudi government's  
12 sponsorship diverted funds to al-Qaeda.

13 Do you see that?

14 A. Yes.

15 Q. You don't think that's misquoting what  
16 the commission said?

17 A. No, I do not.

18 Q. So you think exclusion of likelihood is  
19 the same thing as likelihood?

20 A. Not excluding the likelihood. You just  
21 misquoted the report, I believe.

22 Q. Okay. Let's move on, then.

23 Can you tell me who established this  
24 infrastructure that you're referring to from the  
25 charities? And how this infrastructure was

1 had a lot of information from other sources, and I  
2 could not read everything.

3 As you pointed out, there are millions of  
4 pages.

5 Q. Sure. Let's -- if you can -- we can take  
6 this down. We just go to -- and very quickly,  
7 Mr. Winer, I'd like to ask you about your summary  
8 section three, 3.1-3.17. And I assume this is an  
9 affirmative report. I think that was 698, I  
10 believe.

11 And this -- there is no citation because  
12 they are executive summaries; correct?

13 A. That's correct.

14 Q. Okay. Now, Section 3.12, you state that  
15 charities such as IIRO, Muslim World League, and  
16 WAMY did not accurately report support they provided  
17 for terrorism; correct?

18 A. Yes.

19 Q. Okay. And in footnote four of your  
20 report, page 10, it's -- you say -- you stated that  
21 you have seen no audit pertaining to WAMY or Muslim  
22 World League, but audit entities -- of entities they  
23 funded or assisted show false recordkeeping.

24 Which other organization did you review a  
25 document showing WAMY audits were reported in this

1 or any other -- or Muslim World League?

2 A. Well, WAMY, for example, provided support  
3 to --

4 Q. That's not my question, Mr. Winer.

5 A. I'm sorry --

6 Q. I'm asking which other organization you  
7 reviewed documents showing WAMY audits.

8 MR. HAEFELE: Mr. Mohammedi, I'm  
9 going to caution you again, you have to let  
10 the witness answer the question. If you don't  
11 like his answer --

12 MR. MOHAMMEDI: If the witness does  
13 not answer my question, I'll have to ask again  
14 for it to --

15 MR. HAEFELE: That's fine, you can  
16 ask again, I suppose, and take the time, but  
17 you can't interrupt the witness from answering  
18 the question.

19 MR. MOHAMMEDI: Okay. I'm going to  
20 ask another question -- I'm going to ask this  
21 question again: Which other organization you  
22 reviewed documents showing WAMY audits?

23 A. The Third World Relief Association.

24 Q. (BY MR. MOHAMMEDI) You reviewed the  
25 documents showing WAMY audits?

1 A. No, I didn't say WAMY audits.

2 Q. Okay. So my question, which other  
3 organization you reviewed documents showing --  
4 because in your footnote, you state that you have  
5 seen no audits pertaining to WAMY or Muslim World  
6 League. But audit of entities they funded or  
7 assisted show false recording.

8 A. I have sought to answer your question  
9 accurately each time you've asked it. Let me try  
10 again.

11 At the time I wrote the first report, I  
12 asked for but did not receive audits pertaining to  
13 WAMY or Muslim World League. I wanted them, I  
14 didn't get them. I got them and discussed them in  
15 the rebuttal -- my rebuttal report. I did see  
16 audits of entities they funded or assisted which  
17 showed false recordkeeping.

18 Q. And which organizations are those?

19 A. The Third World Relief Association is  
20 one. And the IIRO is another.

21 Q. So how come we don't have that in the  
22 reliance material, the document of WAMY showing the  
23 false recording in the Third World Relief  
24 organization?

25 A. I believe they are in the reliance

1 material. I believe that they are cited in my  
2 report.

3 Q. So you -- so the documents in your  
4 reliance material show that -- which you stated show  
5 that false -- I mean the false recording of WAMY,  
6 when -- it was audits from WAMY, at TWRA, that show  
7 false recording from WAMY audits; correct?

8 A. That's not what my statement says.

9 Q. Okay. So I'm going to repeat that.

10 You state that you have seen no audit  
11 pertaining to WAMY and Muslim World League, but  
12 audits of entity they funded or assisted show false  
13 recording.

14 Do you see that?

15 A. Yes.

16 Q. What do you mean by that?

17 A. If you look at the Canadian audit of the  
18 Canadian entity, if you look at the audit that was  
19 undertaken of the Austrian, Vienna-based entity, the  
20 Third World Relief Association, there are  
21 transactions from WAMY in that case to them, and  
22 they engage in false recordkeeping. It's quite  
23 clear from the audit -- had additional material that  
24 that charting was providing, among other things,  
25 military support, and that the recorded records,

1 financial transactions, were in one clearance is not  
2 the same as what a fax showed.

3 And from context it's clear to me that  
4 there was pretty comprehensive false bookkeeping for  
5 the Third World Relief Agency. It's also consistent  
6 with what I've seen in many financial --  
7 international financial crime cases, in which the  
8 purposes of transactions are mischaracterized for  
9 the purpose of transactions that went through banks  
10 or that were recorded. It's very typical of a lot  
11 of various kinds of criminal activity. And that's  
12 the case with that organization.

13 Q. So we're talking about WAMY Canada, we're  
14 talking TWR; correct?

15 A. Yes. And IIRO --

16 Q. Okay.

17 A. -- and IIRO as well.

18 Q. Okay. We will get to that at some point.  
19 If I can get Exhibit 12, monograph on  
20 terrorist finance.

21 (Winer Deposition Exhibit 909,  
22 Monograph on Terrorist Financing -  
23 Staff Report to the Commission, was  
24 marked for identification.)

25 Q. (BY MR. MOHAMMEDI) If you go to page 20,

1 writings you rely on claim that WAMY ever justified  
2 killing of nonbelievers.

3 A. If we go to Section 12.11 of my report,  
4 it provides a number of specific examples.

5 Q. Section 12 of your report?

6 A. 12.11.

7 Q. Can you just -- can you just point me to  
8 where it says that specifically? Where WAMY  
9 specifically had text publication or writing --

10 A. Pages 102 and 103 of my report.

11 Q. It was quote from Kane; correct?

12 MR. HAEFELE: Objection to form.

13 Q. (BY MR. MOHAMMEDI) That was not the  
14 statement directly; right?

15 MR. HAEFELE: Objection to form.

16 A. My understanding is these come from the  
17 documents that were cited.

18 Q. (BY MR. MOHAMMEDI) Which document are  
19 you referring?

20 A. They're set forth and specified in  
21 paragraph 12.11.

22 Q. So you were saying that there are  
23 documents in WAMY, texts or publications, that  
24 justify the killing of nonbelievers?

25 A. Yes, that's my --

1 Q. Is that correct?

2 A. That's my understanding of when they say:  
3 Who was behind the biological crisis which became  
4 like brainwashing? A Jew. And it goes on from  
5 there, and they talk about why are you so miserly  
6 with your blood.

7 Q. Okay. So to you that is --

8 A. Teach our children to love taking revenge  
9 on the Jews and the oppressors.

10 Q. Do you agree that there are hatred  
11 statements made all over the world?

12 MR. HAEFELE: Objection.

13 A. I'm not in a position to discuss -- to  
14 opine on hatred statements all over the world. This  
15 is calling for revenge on the Jews.

16 Q. (BY MR. MOHAMMEDI) And you are saying  
17 that WAMY text specifically said that we are  
18 justifying the killing of nonbelievers?

19 A. Yes.

20 Q. Okay. We'll move on.

21 I'm just going to ask you another  
22 question. You are not a religious expert, are you?

23 A. We've discussed this issue earlier.

24 You've asked me this question. I understand a  
25 religion in a political context when religion is

1 used for political purposes as part of my  
2 understanding of relationships among states, as part  
3 of my understanding of terrorism. We had national  
4 and global security issues. And so in that context,  
5 yes. In the context of various religious doctrines,  
6 intrareligious discussions of text, there are people  
7 who spend their lifetimes as religious scholars, and  
8 that has not been my work.

9 Q. And you're referring -- is it fair that  
10 you are referring to a document that's expressed  
11 religious views of an organization, and you are  
12 making the -- you are reaching the conclusion that  
13 was calling for justifying the killing of  
14 nonbelievers; correct?

15 MR. HAEFELE: Objection to form.

16 A. Yes.

17 Q. (BY MR. MOHAMMEDI) You understand the  
18 meaning of jihad?

19 A. It has multiple meanings.

20 Q. Okay. Do you understand the meaning of  
21 Salafis?

22 A. I believe so.

23 Q. You do? And are you testifying as an  
24 expert here to discuss jihad and Salafis?

25 A. Only in the context of the political

1      Administrative Review Board Proceedings; is that  
2      correct?

3            A.      That's what the citation says; that's  
4      right.

5            Q.      And it's undated, correct? There's no  
6      date here?

7            A.      I'm sorry, I couldn't understand you just  
8      now.

9            Q.      There is no date here; correct?

10          A.      Not on this page.

11          Q.      And then, in your footnote 97 you said:  
12      The U.S. government has also stated according to top  
13      WAMY officials, both United States and Israel must  
14      be destroyed; correct?

15          A.      That's what the footnote says.

16          Q.      What do you mean by U.S. government?

17          A.      Sure. The way in which the United States  
18      government works, when someone is engaged in this  
19      kind of a process, is they're doing it according to  
20      a variety of designations that they have made.

21                  So, for example, as I explain in my  
22      report, a Tier 1 NGO is defined as a particular  
23      definition. And that particular definition is  
24      having demonstrated sustained and active support of  
25      a terrorist organization, willing to attack U.S.

1 persons or interests.

2                   But before I go on, what I would like to  
3 do is to look at this entire document for a minute,  
4 rather than just this one page.

5                   Q.        Yeah. I mean, Mr. Winer, the only  
6 thing -- I'm ask -- I'm going to ask you about some  
7 of the document.

8                   A.        Just give me --

9                   Q.        Bear with me.

10                  A.        You have asked me a question, and I would  
11 like to -- in order to answer the question properly,  
12 I would like to take a minute to review the  
13 document.

14                  May I do that?

15                  MR. HAEFELE: Yes, Jonathan, you may.

16                  MR. MOHAMMEDI: I am not asking you  
17 about this document, I'm asking you about the  
18 report where you making the statement.

19                  MR. HAEFELE: Yeah, but you've asked  
20 him about the document. If there's something  
21 in the document, he feels the need to review  
22 the document, we've --

23                  MR. MOHAMMEDI: I have no question  
24 pending, Robert.

25                  MR. HAEFELE: Omar, we've

1 govern that process.

2 So it will be reviewed from all of those  
3 perspectives. It may well also have been reviewed  
4 from other perspectives if it was going to be used  
5 in connection with an external legal process.

6 Q. Can an NGO designee challenge the  
7 designation in this process?

8 A. No. No, to the best of my knowledge, no.

9 Q. Is there any due process procedure for  
10 seeking in these matters?

11 MR. HAEFELE: Objection to form.

12 A. There's due process proceedings that  
13 apply to designations undertaken by OFAC. In these  
14 national security processes, in terms of who is  
15 designated as a Tier 1, I don't believe there are  
16 any. However, you're beginning to get into  
17 Guantanamo territory, where you have this very  
18 complex array of laws as to what is proper and what  
19 is not proper when it intersects with the criminal  
20 justice system and when it doesn't. And in that  
21 highly technical area, I would have do a great deal  
22 of additional study before being able to provide  
23 further guidance.

24 Q. (BY MR. MOHAMMEDI) But you did have that  
25 in your report, right? You did explain Guantanamo,

1 4:18 p.m.

2 Q. (BY MR. MOHAMMEDI) Mr. Winer, are you  
3 aware of any person who attended madrassas, as you  
4 mentioned from WAMY, WAMY madrassas, that became a  
5 member of al-Qaeda?

6 A. I don't know who attended WAMY madrassas  
7 and who did not.

8 Q. But you are not aware of anyone who was  
9 at the madrassas that became a member of al-Qaeda?

10 A. I do not know what madrassas incubated  
11 which fighters and which terrorists, period.

12 Q. Okay. So the question you are not aware  
13 of anyone who attended madrassas, it doesn't matter  
14 which type of madrassas, that became a member of  
15 al-Qaeda.

16 A. I know that there are people who became  
17 members of al-Qaeda who attended madrassas.

18 Q. What about WAMY?

19 A. I don't know which madrassas they  
20 attended, whether they were related to WAMY or any  
21 other organization that sponsored a madrassas.

22 Q. So as you sit here, you don't "know"  
23 know; correct?

24 A. That's correct.

25 Q. Let's go to your report, Section 12,

1 the information is accurate?

2 A. I believe that he ran LBI. And in the  
3 deposition of Noor Wali, Noor Wali talks about  
4 Batterjee's central role.

5 Q. I do understand that. But you paint him  
6 as a chairman of LBI; correct?

7 A. He ran it. Did he have the formal title  
8 of chairman? I don't recollect.

9 Q. And it is fair to say you have not  
10 reviewed documents produced in this case as to the  
11 role of Batterjee with LBI; correct?

12 A. I don't think it's fair to say that. I  
13 reviewed Noor Wali's deposition, which goes into it  
14 in some depth about Batterjee's role. I reviewed  
15 other documents in which Batterjee was characterized  
16 as the founder of LBI. This includes the U.S.  
17 government, and I think the UN's findings about  
18 Batterjee, which in turn are consistent with the  
19 proffer in the Arnaout case, put together by Patrick  
20 Fitzgerald. All of this is made complicated by the  
21 fact that the word al-Barr in Arabic, A-L dash  
22 B-A-R-R, I understand to be the word that's  
23 translated often as "benevolence." And that becomes  
24 part of the elements of confusion, as well as what  
25 Batterjee was doing within LBI and what Batterjee

1 government employee is always right?

2 MR. HAEFELE: Objection to form.

3 A. I'm sorry, I couldn't understand what you  
4 just said. Please repeat it.

5 Q. (BY MR. MOHAMMEDI) Do you believe a  
6 government employee is always right?

7 A. No.

8 Q. And if the documentary evidence in a case  
9 that proves the opposite of that government  
10 employee, will you consider that?

11 MR. HAEFELE: Objection, form,  
12 foundation, misstates the evidence.

13 A. I try to consider everything. In the  
14 case of Arnaout and LBI and BIF, and WAMY, you have  
15 a very complicated environment in which Arnaout and  
16 Batterjee are meeting with key people who are part  
17 of al-Qaeda early on, in which WAMY provides early  
18 support to LBI, which is simultaneously Saudi and  
19 Pakistani. LBI at some -- at some point Batterjee  
20 creates another benevolence, similarly named. So a  
21 person who previously met with Bin Laden becomes  
22 head of the U.S. organization.

23 So sorting all of that out in a way that  
24 is transparent, clean, and linear is not possible  
25 because it's all concatenation. It has to be looked

1 at together. And that's how I understand the  
2 situation.

3 Q. (BY MR. MOHAMMEDI) Isn't it a fact that  
4 because you are making a statement that BIF and LBI  
5 are intertwined and you mentioned that many times,  
6 interchangeable, based on a proffer; right?

7 That's --

8 A. No.

9 Q. Okay. So let me ask you a question.  
10 Another question.

11 It's not based on a proffer you say;  
12 correct?

13 A. It's based on all the information  
14 available to me.

15 Q. Okay. Okay. So let's go through some of  
16 the documents to show you.

17 If you put in Exhibit 26, which is --  
18 just remind me where we are.

19 TRIAL TECHNICIAN: 914, I have.

20 (Winer Deposition Exhibit 914,  
21 Minutes of the Seventh Meeting of the  
22 Benevolence Committee's Supervisory  
23 Council, was marked for  
24 identification.)

25 Q. (BY MR. MOHAMMEDI) This is an Arabic

1 director starting February 1993; correct?

2 MR. HAEFELE: Objection, form.

3 A. It does -- it actually doesn't say that.

4 It refers to a handover from the former director.

5 And refers to an attempt to ease the tension, which  
6 suggests there are still actions to be taken. So I  
7 can't assess from this when he was dismissed.

8 Q. (BY MR. MOHAMMEDI) But you can assess  
9 that he was not with LBI as of February 1993,  
10 correct?

11 MR. HAEFELE: Objection, form.

12 A. No, I cannot.

13 Q. (BY MR. MOHAMMEDI) You cannot?

14 A. I can't tell what date he left, based on  
15 this.

16 Q. If you --

17 A. If I may continue. It looks to me from  
18 this document that at some point in this period, a  
19 new executive director took over from the old  
20 executive director. It doesn't say that the old  
21 executive director was dismissed. It does say that  
22 there was tension and action going -- needed -- that  
23 needed to take place to ease the tension.

24 So the dates -- the basic idea that he  
25 was leaving the position seems to me the most

1 plausible interpretation of this. The statement  
2 that he's dismissed does not -- is not set forth in  
3 this document.

4 Q. Okay. I think we -- you know, I guess we  
5 will go through the documents.

6 If we can have Exhibits 23.

7 (Winer Deposition Exhibit 915,  
8 2-23-1993 letter to Adel Batterjee,  
9 was marked for identification.)

10 Q. (BY MR. MOHAMMEDI) Which is dated  
11 February 23, 1993.

12 That is the English version, which is  
13 FED-PEC0114419, the Arabic document.

14 And then there is a translation.

15 If you can just make that bigger.

16 Can you read it for -- I mean, you can  
17 read it to yourself if you want to.

18 A. Yes, this is consistent with Mr. Noor  
19 Wali's deposition.

20 Q. And you do not have any reason to dispute  
21 this accurate -- the accuracy of this document,  
22 right?

23 A. No, I do not. I believe this is likely  
24 to be accurate. I have no reason not to think it  
25 accurate.

1 the hearsay rules and the introduction of evidence  
2 in that case.

3 Q. Can you read the last -- I mean, it  
4 says -- when it says: Given the insufficiency of  
5 the Santiago proffer, the Court cannot find by a  
6 preponderance of the evidence -- right -- that the  
7 proffer -- that -- I can't see it. Unfortunately I  
8 have this.

9 You read the statement, right? So the  
10 Court finds insufficient evidence in Santiago  
11 proffer; correct?

12 A. Let me read the sentence and then I will  
13 provide you my assessment of it.

14 Given the insufficiency of the Santiago  
15 proffer, the Court cannot find by a preponderance of  
16 the evidence that the proffered statements -- that  
17 would be proffered statements -- that the proffered  
18 statements are admissible under the co-conspirator  
19 exception to the hearsay rule before trial.

20 So this is a reference to proffered  
21 statements by co-conspirators. It's not about the  
22 prosecutor's statement, it's about the proffered  
23 statements about what the co-conspirators said, is  
24 how I read that sentence.

25 Q. And the Santiago proffer --

1 MR. HAEFELE: Objection to form.

2 Is there a question?

3 Q. (BY MR. MOHAMMEDI) Do you -- have you  
4 considered this?

5 MR. HAEFELE: Objection to form.

6 A. Yes, I read the terrorist financing staff  
7 monograph. And these cases, complex financial crime  
8 cases from all counts.

9 Q. (BY MR. MOHAMMEDI) Did you --

10 A. Please allow me to respond.

11 Complex financial crime cases, I've seen  
12 repeatedly, run into problems even when it was clear  
13 to me, in connection with such cases, that there was  
14 serious criminal activity. I've seen this  
15 repeatedly. They are hard cases to make, because  
16 the actions that relate to complex international  
17 crime cases, which include terrorist finance cases,  
18 can take place over a long time. They can involve  
19 people who aren't available for testimony in the  
20 United States. The source is going to be a  
21 mixture -- can involve intelligence sources which  
22 can't be readily converted into physical evidence.  
23 So they are hard case to make.

24 In this case, there is a reference here  
25 to at least after al-Qaeda was designated a foreign

1 terrorist organization in 1999. One of the issues  
2 in the BIF case, as I understand it, was in the time  
3 period that the -- that was relating to the proofs.  
4 Some of the activity that the government alleged was  
5 from older activity.

6 So all of those, that has to be taken  
7 into consideration, as one thinks about this  
8 paragraph.

9 Finally, from the question of negative  
10 public opinion, in any community, contend that  
11 destruction of the charity reflects bias and  
12 injustice, with no measurable gain to national  
13 security. I don't, as an expert, view the public  
14 opinion in a particular community, whether it's  
15 Muslim, Christian, or Jewish, Arab or Hispanic or  
16 Latin, or any other group, to be a determining  
17 factor of whether one should bring a case if a  
18 prosecutor believes that they have a criminal case  
19 to make.

20 And so I note here that the terrorist  
21 financing staff monograph doesn't say that it  
22 should, it simply said that these communities  
23 contended this.

24 And so that's how I thought about this  
25 paragraph when I read it, and that's how I think

1 about it now.

2 Q. (BY MR. MOHAMMEDI) So your opinion, all  
3 the exhibit they enter here into evidence for you to  
4 look at, you don't think there were, you know, you  
5 have a better understanding of all of these findings  
6 than those exhibits that we entered into evidence  
7 today that you did not consider them also in your  
8 report; correct?

9 MR. HAEFELE: Objection to form.

10 A. That's a misstatement of my testimony.

11 Q. (BY MR. MOHAMMEDI) Okay. That is -- I'm  
12 not saying this is your statement, and actually I'm  
13 asking the question, and that's fine.

14 A. What is your question, please?

15 Q. The question, you are -- all the exhibits  
16 that we entered now into evidence for you to  
17 evaluate, right? Which you missed most of the time  
18 in your reports, those evidence are not enough for  
19 you to conclude -- right? -- what you have not  
20 concluded before in your report by not considering  
21 this information -- those information; correct?

22 MR. HAEFELE: Objection to form.

23 Q. (BY MR. MOHAMMEDI) You still stood by  
24 your opinion, what you wrote in your report;  
25 correct?

1 Q. (BY MR. MOHAMMEDI) The lawyers that  
2 hired you, those allegations, correct? They're  
3 still allegations.

4 MR. HAEFELE: Objection to form.

5 A. That's correct.

6 Q. (BY MR. MOHAMMEDI) In 10.3.1, page 68,  
7 again, you say that CRA audit found massive  
8 deficiencies. Do you see that?

9 A. Yes.

10 Q. Are you an auditor?

11 A. No, I am not an auditor, I'm an attorney.

12 Q. Are you a CPA?

13 MR. HAEFELE: Objection, asked and  
14 answered.

15 A. You asked me this question earlier. I  
16 previously have responded to that question to tell  
17 you that I am not a certified public accountant.

18 Q. (BY MR. MOHAMMEDI) So what qualification  
19 do you have to render this opinion?

20 MR. HAEFELE: Objection.

21 A. I have laid out my qualifications  
22 previously in this deposition. I'm going to respond  
23 to your current question at some length since the  
24 question is a very broad question.

25 I first began dealing with bank

1 statements and the way in which financial crimes  
2 take place internationally in 1980 in a very early  
3 anti-money laundering case. In the mid '80s, I was  
4 on the staff of a series of Senate investigations  
5 chaired by my -- man that I was employed by, Senator  
6 John Kerry, in which I acted as his counsel.

7 And in the course of that, undertook  
8 investigations that required me to look at and  
9 understand financial reports and auditing and  
10 accounting statements which included a review in the  
11 Bank of Credit and Commerce International of  
12 accounting and auditing standards that were in  
13 effect at the time. How to read what's in the  
14 accounting review or an audit. Because not every  
15 accounting review is, of course, an audit.

16 Q. (BY MR. MOHAMMEDI) Okay.

17 A. I continued to work in this space as an  
18 attorney. As previously mentioned, I represented  
19 several persons or entities who were engaged in  
20 activity that raised issues relating to terrorist  
21 finance and accounting or audit, and in the course  
22 of that work continued to become familiar with by  
23 such standards.

24 Q. So --

25 A. In this case --

1 Q. Let me ask you --

2 A. You asked me a question --

3 Q. I need to ask you -- you --

4 A. I am not --

5 MR. HAEFELE: Let him answer the  
6 question.

7 MR. MOHAMMEDI: What you have done  
8 before -- we have heard that already.

9 A. I am not -- you have asked me a question.  
10 I would like to --

11 Q. (BY MR. MOHAMMEDI) I am asking you a  
12 specific question.

13 A. Yes, you did. You asked me what my  
14 expertise was.

15 Q. No, I'm asking you what the basis of you  
16 making many statement massive, what is your -- what  
17 is your basis for --

18 MR. HAEFELE: Mr. Mohammedi, I'm  
19 going to object that you're not letting the  
20 witness answer the question yet again. This  
21 is -- he's exactly answering exactly the  
22 question you asked him. Don't interrupt.

23 Q. (BY MR. MOHAMMEDI) So the question is,  
24 what is the standard of massive?

25 MR. HAEFELE: Mr. Winer, if you need

1 to finish answering your previous question,  
2 finish answering the question before you  
3 proceed on to Mr. Mohammedi's new question.

4 Mr. Mohammedi, please do not  
5 interject and interrupt the witness.

6 MR. MOHAMMEDI: We'll move on. It's  
7 fine. I don't need to hear it. I really  
8 don't need to hear it. I asked a question and  
9 you didn't answer. It's nonresponsive so I'm  
10 going to move on.

11 MR. HAEFELE: Let the record reflect  
12 that his extensive experience surpasses what  
13 you've allowed him to answer.

14 MR. MOHAMMEDI: We've heard that over  
15 and over again. I'm asking specific questions  
16 related to CRA report.

17 A. The answer to that not --

18 Q. (BY MR. MOHAMMEDI) There is no question  
19 pending, Mr. Winer. We are moving on.

20 A. Excuse me, there was a question pending,  
21 sir.

22 Q. I heard it. I heard your answer.

23 A. You had a second question, which  
24 lasted --

25 Do you withdraw that question? I just

1 want to make sure that I answer your question.

2 Q. I'm withdrawing the question. We'll move  
3 on.

4 In preparing your affirmative report,  
5 we -- you already stated that you did not review  
6 WAMY audits; correct?

7 A. I asked for but did not receive --

8 Q. And you asked from who, the plaintiff  
9 attorneys?

10 A. Yes.

11 Q. And, I mean, you -- so you asked for it  
12 but you never received it; correct?

13 A. That is correct. I received it after  
14 asking again, after the audit reports -- after the  
15 expert reports for the defense were provided, I  
16 asked for them again and got more. There were still  
17 many, many, many missing reports, but I did receive  
18 some reports as set forth in my supplemental  
19 statement.

20 Q. Okay. How many of the approximate 825  
21 projects report listed in Mark's appendix did you  
22 review in preparing for your rebuttal?

23 A. I reviewed the materials that I listed in  
24 my reliance report. I reviewed all the audits and  
25 material that were characterized as audits that I

1 could find and was provided. If there were more, I  
2 would have -- been provided more, I would have read  
3 more. It's information that I consider to be of  
4 great use when there's audits.

5 The audits that were provided me and I  
6 asked for more did not correspond to the number  
7 described in one of your expert's reports, and I  
8 highlighted the difference between the number that  
9 was described and what was made available to me. I  
10 don't know whether there were additional audit  
11 reports available or not. I am aware of the  
12 representations regarding the report.

13 Q. Do you know how many financial documents  
14 have been produced in this case?

15 A. I do not know, first, how you described  
16 it, what the word financial means in this case.

17 Q. Have you reviewed the receipts, WAMY  
18 receipts produced in this case?

19 MR. HAEFELE: Objection to form.

20 A. You'd have to show me receipts in a  
21 particular area. I reviewed some receipts. They  
22 were purported to be audit material that's described  
23 in one of your expert reports. I went in the  
24 reports and looked at all of the references to  
25 material in the expert report on the auditing

1 East.

2 Q. So as you sit here, you are telling me  
3 that you are an expert in maintaining of the  
4 standard -- international banking standard in the  
5 countries that you are referring to?

6 A. In relationship to financial crime, yes.

7 Q. What about the standard --

8 A. The --

9 Q. I'm talking about the financial standard,  
10 not the crimes. I'm talking the standard of  
11 implementation of banking standard in countries.

12 A. In the late 1990s, when I was in the  
13 United States government, we became very focused on  
14 the fact that there were essentially no controls on  
15 movements of funds in most if not all -- actually  
16 all at that point of the Middle Eastern states.  
17 Whether they were Christian states, Muslim states,  
18 or Jewish states, it was a problem across the board.  
19 It was particularly a problem in countries that  
20 didn't have annual taxes, that didn't have an income  
21 tax.

22 And so one of the things that the  
23 treasury department, the justice department, the  
24 State Department focused on, in response to  
25 direction from the White House, was how we start

1 ratcheting up to these standards. And that was part  
2 of the work that was undertaken by the Financial  
3 Action Task Force in the late 1990s.

4 After I left the government, I was asked  
5 to continue to evaluate the situation in a large  
6 number of countries, including all the countries in  
7 the Middle East in this territory.

8 Q. And you were saying this including the  
9 Saudis and the accounting standard as implemented  
10 from the international standards; correct?

11 A. It would -- no, it would be too much to  
12 say the accounting standard, because I did not cover  
13 the details of accounting standards. I looked at  
14 the overall regulatory and enforcement system, which  
15 looked at financial transparency and accountability,  
16 and what the controls were in place in the banking  
17 system at that time. And that in turn looked at the  
18 practices of businesses and sort of the general  
19 level of oversight, which was poor.

20 Q. And is it fair to say you did make the  
21 similar statement during the TD Bank case when you  
22 said that you were an expert in implementation of  
23 the accounting standard in Canada and you were  
24 excluded; correct?

25 A. That's not correct.

1 For supporting terrorists. Is that correct?

2 A. It's a red flag for the kind of slush  
3 fund category that would enable a charity operating  
4 in an area of conflict to provide support for a  
5 terrorist group because it's providing support for  
6 young men in an area of conflict that is foreign to  
7 them. In other words, you had foreign fighters in  
8 this period of time in Pakistan and Afghanistan,  
9 foreign meaning they're not Pakistani and they're  
10 not Afghani, and there's money being provided for  
11 them for student welfare. So it's a slush fund.  
12 And there are no controls. There's a complete lack  
13 of controls. There's no evidence of any controls on  
14 the actual uses. And that's what I'm -- my  
15 statement is essentially saying.

16 Q. Do you know which is the objective of  
17 WAMY?

18 Do you know the name itself, what it  
19 means? The World Assembly of Muslin Youth?

20 MR. HAEFELE: Object to form.

21 Q. (BY MR. MOHAMMEDI) Do you know the  
22 objective of providing student with funds to educate  
23 them?

24 A. Yes, I'm -- but what -- it's more  
25 difficult for me to know what's being done when the

1 people to whom the funds are being provided are in  
2 an active area of conflict or in an area that is  
3 over -- has got a substantial number of terrorist  
4 training camps and a terrorist presence in it.

5 Q. And that's --

6 A. And the issue --

7 Let me finish my answer, please, sir.

8 Q. Go ahead.

9 A. Thank you.

10 So the issue is the location of where the  
11 activity is, and the fact that this category of  
12 funding is different from the kinds of categories of  
13 funding audits show for areas that were not in  
14 conflict. You don't -- I didn't see these  
15 categories in the other -- in the audits you  
16 provided to me, and were provided to me, for WAMY,  
17 in areas that were not conflict zones, that were  
18 less susceptible to terrorist risk.

19 The fact that these categories appear in  
20 these audits in this location at this time is of  
21 concern and fits precisely within the  
22 vulnerabilities that have been -- that have been  
23 evident for years, and which reflect the 1996  
24 findings of the CIA in the 1966 report -- pardon me,  
25 the 1996 report in Bosnia.

1 So it's not merely that this is a  
2 category of potential substantial risk and abuse,  
3 it's also that this category was not present --

4 Q. Okay. And --

5 A. -- in the audits that took place after  
6 9/11, in areas that were not conflict areas.

7 Q. So your testimony, because it's in an  
8 conflict zone that then it should be used to support  
9 terrorism; correct?

10           A.        That's not a correct statement of my  
11        views or --

12 Q. You said that exactly. You said because  
13 of a place of conflict. That's exactly what you  
14 said. Correct?

15 MR. HAEFELE: Objection,  
16 argumentative.

17 A. It is not exactly what I said.

18 Q. (BY MR. MOHAMMEDI) Okay. Let me -- so  
19 is it fair to say --

20 A. That's not what I said at all.

21 Q. Okay. So is it fair to say place of  
22 conflict and the places where there is a war, where  
23 there are refugees, place of, that's exactly -- we  
24 can assume that where you have the students' welfare  
25 being used to help the population that is affected

1 material weaknesses in the controls caused this  
2 person to engage in training, who then became a  
3 terrorist and participated in the 9/11 attack. And  
4 the answer is, there is no proof of that because by  
5 their very nature, this funding took place, the  
6 support took place without the controls that would  
7 have enabled anyone to reconstruct the support that  
8 led to al-Qaeda.

9 So instead, one has to rely on a lack of  
10 controls and the material deficiencies in the  
11 controls, the presence in the location, the nature  
12 of the people who were being served, the fact that  
13 they're foreign fighters rather than domestic or  
14 local -- they're foreigners rather than domestic or  
15 local people, and a variety of other factors as I've  
16 illustrated in the report.

17 Moreover, the report goes into facts such  
18 as the provision of travel documents and  
19 facilitation and so on. One would then have to get  
20 quite granular, and you've not asked me about those  
21 granular issues.

22 Q. I did ask you to answer them, but let's  
23 move on.

24 Now, rebut -- in your rebuttal 2.34-2.35,  
25 page 28-29, you stated at Section 2.34, I understand

1 testified yesterday, from Afghanistan to Bosnia to  
2 Chechnya and so on, and metastasized further. The  
3 training that was received in connection with the  
4 foreign fighters in Afghanistan began within the --  
5 at the end of that first period. And the reason why  
6 I divide it into periods is because different things  
7 happened in different periods, and the end of the  
8 first period was the period when al-Qaeda was  
9 formed, and -- as al-Qaeda, which itself was an  
10 outgrowth of the service office of the MAK. A  
11 foreign body itself.

12 MR. LEWIS: Objection to strike.

13 Q. (BY MR. LEWIS) We're not going to  
14 filibuster this, Mr. Winer. I asked you a question:  
15 Do you know when IIRO allegedly helped fund militant  
16 training camps, "yes" or "no"?

17 MR. HAEFELE: Objection, form.

18 A. I don't have the dates. It was in the  
19 course by 1996, and I don't know how many years  
20 prior to 1996.

21 Q. (BY MR. LEWIS) Well, you list it in the  
22 first Afghan period, correct?

23 A. I list the foundations of the -- in the  
24 first Afghan period because of the foundations of  
25 the service bureau, which was receiving funding from

1                   Have you seen any primary evidence of  
2                   funding by IIRO of any training camps in  
3                   Afghanistan?

4                   A.        No.

5                   Q.        Now, you are aware that the UN report  
6                   says that IIRO knowingly or unknowingly may have  
7                   assisted in funding al-Qaeda. So you -- the UN  
8                   couldn't make a definitive determination; correct?

9                   A.        That's your characterization of their  
10                   finding, but I would prefer to see the finding up  
11                   and we can go through their exact words together.  
12                   So what I don't wish to do is to opine on a mixture  
13                   of their words and your words.

14                   Q.        Well, you quote it, and I'm quoting your  
15                   report quoting that report.

16                   A.        So bring me to that quote, please.

17                   Q.        You're not remembering it?

18                   Go to page 22 if you don't have it in  
19                   mind. It's in your report. 6.2.3, sir.

20                   TRIAL TECHNICIAN: Do you know what  
21                   page that's on?

22                   THE WITNESS: Yes. It's the top of  
23                   22. What the report -- what I quoted is as  
24                   follows: The UN report then named IIRO as an  
25                   important example of the use by al-Qaeda of

1 the charities, and stated that it, quote,  
2 works in close association with the Muslim  
3 World League. Well, the MLW is what's in the  
4 quote. The UN report stated IIRO is engaged  
5 in legitimate humanitarian activities but was  
6 also used, quote, knowingly or unknowingly, to  
7 assist in financing al-Qaeda.

8 Q. (BY MR. LEWIS) So you would agree that  
9 the UN did not make a determination to your  
10 knowledge.

11 (Reporter clarification.)

12 Q. (BY MR. LEWIS) You would agree that the  
13 UN did not make a determination with respect to the  
14 state of IIRO's knowledge with respect to any  
15 assistance in financing al-Qaeda.

16           A.       I would interpret the statement which  
17       says -- was used knowingly or unknowingly to assist  
18       in financing al-Qaeda to be a sentence that says  
19       that we're making no decision here on the intent of  
20       IIRO as an institution.

21 Q. And the 9/11 Commission did not make such  
22 a finding either, did it?

23 A. That's correct. Not by name.

24 Q. The UN report cited the 1996 CIA report.  
25 Do you recall that, sir?

1 rather than distributed interagency at that point.  
2 But that's speculative. I would need to know more  
3 to be able to determine in the end what its specific  
4 provenance was.

5 Q. (BY MR. LEWIS) Do you see the  
6 handwritten notation that says U.S., and then with  
7 parentheses around it?

8 A. What page are we on, sir, please?

9 Q. The first page, sir.

10 A. I'm sorry?

11 Q. The first page.

12 A. Yes, I see that parentheses.

13 Q. Yes. Do you have an understanding of  
14 what that is meant to indicate?

15 A. I assume but I do not know that that is  
16 an indication that it's a United States document or  
17 relates to the United States.

18 Q. That it came from the United States or  
19 that it is with the United States or...

20 A. Well, my reliance on this document is  
21 based on the fact that it was referred to as a CIA  
22 document by the UN, which would know, Victor Comras  
23 was on that committee at the time. He was an  
24 official I had worked with. He had lots of  
25 experience with the U.S. government, classified

1 information, intelligence information. And so I  
2 take the UN's characterization of it at face value  
3 and have no reason to think it was incorrect. It's  
4 also consistent with the kind of data and the kind  
5 of presentation of data that I've seen a number of  
6 times in this period on a range of topics having to  
7 do with international threats.

8 Q. Except for the lack of any classification  
9 marking it as a classified document; correct?

10 A. Well, no, this is -- I had FBI documents,  
11 quite similar to this, going on and on and on about  
12 international criminal organizations, which included  
13 information on terrorism on behalf of the FBI  
14 generated rather than CIA. Quite similar, without  
15 any markings on it, same kind of approach, which  
16 were essentially internal analytic reports that  
17 would sometimes go on at great length and would be  
18 used for providing frameworks and foundations for  
19 further work.

20 Q. Do you know the difference, Mr. Winer,  
21 between what the CIA would refer to as a finished  
22 intelligence product and a preliminary intelligence  
23 product?

24 A. Well, there's a number of different  
25 categories. There's raw intelligence, there's

1 preliminary intelligence, there's finished  
2 intelligence, and there are more categories than  
3 that, I'm sure.

4 Q. Can you tell from looking at this  
5 document what kind of product it is?

6 A. It's analytic intelligence.

7 Q. Mr. Winer, you -- I think you indicated  
8 earlier that the UN relied on this. The URL link is  
9 broken. Do you have knowledge that -- the URL link  
10 that the UN cites is no longer operative. Do you  
11 have knowledge as to whether it is precisely this  
12 document that the UN was citing or some other form  
13 of the document?

14 A. I have no reason to believe it was  
15 anything other than this.

16 Q. But you have no knowledge one way or  
17 another?

18 A. It's not something I can currently prove  
19 myself, given the broken link.

20 Q. Let me ask you, when did you first see  
21 this document?

22 A. I first saw this document after I was  
23 retained in this matter in December of 2019.

24 Q. You did not see it while you were in  
25 government, did you?

1 MR. HAEFELE: Don't interrupt the  
2 witness. Don't interrupt the witness.

3 MR. LEWIS: Then --

4 A. Then I've answered your question.

5 Q. (BY MR. LEWIS) We're not going to  
6 filibuster. Do you agree with that paragraph --  
7 what it says in the paragraph or do you disagree  
8 with --

9 MR. HAEFELE: I just want to put on  
10 the record my objection to the fact that Eric  
11 Lewis won't allow the witness to finish his  
12 answer.

13 MR. LEWIS: Your objection is noted.

14 A. I think you've cherry-picked in your  
15 question language from that paragraph. If you look  
16 at the whole paragraph, it has a different meaning  
17 than the meaning you've ascribed to it.

18 Q. (BY MR. LEWIS) I just asked you whether  
19 you -- I haven't ascribed any meaning. I said do  
20 you agree with the observation in the paragraph or  
21 do you not agree with it?

22 MR. HAEFELE: But then you selected  
23 portions of the paragraph.

24 MR. LEWIS: No, I read -- well, I  
25 read everything except the last sentence, and